

To: Suzy Rosen Singleton  
Attorney-Advisor DRO  
CGAB-FCC

Re: Reply to Aaron D. Mackey opinion CGB-CC-1352

Suzy,

I am going to do my best to keep things as simple and straight forward as possible in response to the opinion of Aaron D. Mackey on the application for CC exemption. This reply will have very detailed math and also straight forward, honest, and passionate replies which correspond to our phone and e-mail communication since the start of this process for me most recently and several years ago with another member of the FCC who no longer was processing my application. I have no censor button when it comes to my beliefs and opinions. I live my day to day to help others, do good, and be a honorable person and citizen and individual. I am frustrated by the process and I will show here that my request is with merit and accurate. As stated on the phone to you I WISH I was rich enough to be able to afford everything required, I WISH my show had the funds to pay for CC after it has the funds to hire staff and help. I appreciate the work you have done to get me to this final point and hope that the information is understood and applied to see the true reason for the request.

1. I do not tape three annual poker tournaments; I tape one annual tournament (Windy City Poker Championship). The Chad Brown programs are unfortunately no longer able to be produced as an annual event. The Jax50K cash game was a one time production as well. These programs however still are available for broadcast as the content is just as quality as it was when it originally aired. The windy city poker championship continues annual events. I produce(d) past tense around 40 unique episodes from all three events.

During original request there were no specific requests for information, so I provided as best as I could what was requested without any reference or guidelines. The only assistance I received was in direct phone communication with the individual working on the exemption – Roger was his name I believe -. There were several phone conversations as each time there was additional information requested that was not clearly specified. This is why I directly reached out for further clarification in the same manner that I did with you when checking on the status, and then continuing with the new exemption. We have had more than one occasion of a phone chat where new information was needed and then properly given per my understandings and direction from the office.

2. The captioning costs are credible for a variety of reasons that only a producer in television who also is the editor, and director, and writer would understand. For every episode produced there are multiple versions of the story that conclude with

a program. For example I have one episode that had an interview with a player who is no longer with us, that segment was then removed in subsequent rebroadcasts of the show, another example is that I often will have graphics superimposed into the video that will promote fundraisers or charitable events at no charge to the host which promote that specific event. These are dated references. So when this episode is to air after that date, not only does the announcer track which references a specific date and event need to be changed but the graphics as well. These events do not need to be placed in episodes that air outside of that events market. Nobody wants to read or hear about an event in New York when they are watching the program in California. So already from one episode we have 3 versions of the same program. This now gets us into the individual networks and their requirements for what they need for commercial broadcasts. The shows do not have an exact run time of 48:30 as do network produced programs or other feature shows. They will vary with time which will cause for editing trouble depending on where this episode airs. In the home market there is around 10 minutes of commercial broadcast time available for the network. One network I have worked with in the past requires 15 minutes of time. This means I have to cut 5 minutes of actual content from the episode in order to get it to that network for broadcast. This means yet another version of the single episode has been produced. Now we consider the ability for me as a producer to hopefully gather one or two sponsorships nationally as barter or as a paid sponsorship, and several local sponsorships in the home market. One sponsor in the home market has zero benefit for being in a network that is 1000 miles away. That network would also not consider it professional to keep local advertising in the submitted program and would either replace it with one of theirs or want another national brand. So this now means that a local episode will have one version of billboards and ads while the national version will have different spots running which include some sponsorship that are designed to make the sponsor more interested in the program as opposed to being directly billed. I have given commercials to national sponsors (national sponsor meaning someone who wouldn't mind their spot being in California even though they are in Florida) for free in exchange for promoting the broadcast locally. So here we have 1 single episode now with nearly half a dozen versions, all of different videos, content, and length yet from one produced episode. This means that any CC via taped format would require multiple versions which have shown to be a costly option. The cheapest form is to LIVE caption the program at the rates that were provided. But then again it would mean every broadcast of the episode would have the cost involved. But even though it is NOT affordable it is cheaper than the alternative of doing it via the tape provided. Again now we have to look at the delivery format. Caption houses will not caption the HDV tapes that I work with to produce the programs. This then requires me to purchase HDCam tapes, pay for a HDV to HDCam dub, and then pay for the HD Cam dub of the episode. Which I remind you have multiple versions for different networks and not one.

Break it down again from the information provided. Here is some math to show the potential using a \$100 cost ratio for the tapes, \$150 dub ratio for the dub, and \$300 for the HD Cam dub

8 Produced programs for 2015 = 8 HD Cam tapes + 8 HDV to HDCam dubs + 8 HDCam CC projects.  $(8) \times \$100 = \$800$   $(8) \times \$150 = \$1,200$   $(8) \times \$300 = \$2,400$  = that is \$4,400 for one network HD Cam tape versions of the show as a single broadcast option.

Take into account the 2 or 3 possible broadcasts of the show, each show with different graphics, removed outdated information as far as audio and video, and different lengths based on new or removed sponsors and you can see the costs skyrocketing.

Now consider that each network would need their own tape which is as stated before a new version. So even if I only had 2-4 networks to work with rather than the 12+ I have worked with in the past you can see that each network would cost me an additional \$4,400 to caption and send those materials for broadcast for one version of the show. This of course doesn't even take into consideration the time required to send shows to the caption house and then to the network. Since I do not own an HD Cam deck, I would not be able to review before sending to network. Very limiting for a producer who edits shows in record time and gets them to broadcast faster than anyone due to my personal hard work in the project. I have even have shows from production to broadcast in 2 weeks. Working 14 hour days just to get it submitted at the last moment the network would accept. This is what a producer does, this is what I do. I do not expect someone to understand that which is why I have to write this reply.

For a LIVE option. You would see around \$800-\$1,000 in live captioning costs for the 8 episodes, which means I could have 4 different broadcasts of the shows and versions of the shows for less than the cost of producing them via HD Cam tape and having a caption house caption them. This gives me 32 hours of programming as opposed to 8 hours. But it still is an expensive cost if you consider doing this with all the networks that I would like to work with.

The numbers provided are for the previously produced programs which are STILL able to air. Meaning I would have 40 shows that need to be captioned to tape after purchasing new tapes and then paying for the dubs. Again it is simple math

40 x \$100 = \$4,000 for tapes, 40x \$150 for dubs = \$6,000, 40 shows @ \$300 caption rate for HD Cam = \$12,000 = \$22,000 per version for all shows with each network requiring their OWN version in their format.

3. It is possible for me to purchase a new computer and new software and then hire someone to Caption for me all of the versions of my show to be sent to the networks. For an option like this I now have to add a staff member when I do not have the funds available to hire someone else to produce, edit, do graphics, or even handle any social media promotion for the program and events. Additionally the purchase of equipment which will be outdated after so long and then needing to be upgraded would be additional out of pocket costs that even the person who suggests this does not have the information available as an example. Do I need a tablet? A laptop, a desktop? Do I need to have editing software that captures the video? Need an extra hard drive? External monitor? Audio or speakers to hear sound? Also what is the format for the captioning, would it be roll up, exact on time? How many words a minute does someone have to be able to type for it to be efficient? Would it take 1 hour? 2 hours? 3? Would this person then need to be full time to do all the programs? If I pay an above average rate for someone to caption at \$15/hour would it be reasonable to assume that it would take 3 hours to caption and 1 hour to review? So costing \$60 per show? Saving me 50%? But still requiring a large cost? When would I have time to make this happen to hire someone, get equipment needed? Would I do this on my free time which I do not have as a single individual producing a program that has the quality of a national brand? This option is NOT something that my company can produce. This would work for a network or a post production house with a downtown office and an intern etc. The suggestion for this being a solution is a poorly thought of option.
4. My financial records were provided as requested. Do I need to provide every single page of my business and personal records? So far I am currently able to Google my name and company and see the information right away for my exemption request. This means potential clients, or sponsors will see something that may impact their working relationship with me. Additionally now it seems that everyone included in this petition and anyone who wants to search will see my work address, my home address, my personal cell numbers, and just how much profit my company produces. This is unfortunate, so when asked to submit the records what I was asked for I thought I provided. Perhaps I did not provide enough and it seems I have to release all of my personal and business records to prove that this option is not financially good for the program. Even though the above arguments prove that it is expensive for my program that I produce at my own discretion.
5. I did seek help from the distribution company, the network I mainly work with, and my local sponsors. I will not hurt my possible relationship with new networks that are airing my program without charge by asking them to pay for closed captioning. Right now I am only considering working locally due to the vast nature of what being forced to pay for CC might do to my company. This is

already hurting my program and I am hoping that I can be approved for exemption so I can look to re-distribute my programs again and reach out to those who want my program. I have done everything asked and given up more then I should have.

6. I had never received any final decision that my request was denied, the first I was informed was when I reached out directly to the CC office to inquire about the status. Previously it would be 6-8 months before any information was sent, or a phone call was placed to me about the request. The process was not efficient and took on a new “caretaker” in 2013 I believe. This new person requested further information but did not clarify. I had sent in my final updated request with additional information prior to this new individual and was assured that is all I needed to get approved. But knowing what was sent and what I have had to send with working with Suzy this was not the case. There was no official letter or certified mail or anything sent. The office would send standard USPS mail which I never received. If I did then I would not have called in December of 2014 but far sooner when this was issued.
7. Additionally during this time my program was being lumped in with other programs and CC’ed for pay by the network it aired on. I even have the bill which was sent to me accidentally rather then the network directly. For a long time while under the process CC was being paid for LIVE CC when it didn’t need to per the exemption while under review. So again the individual with this opinion is not stating anything factual but making unreasonable claims without verification. I had to apologize to the network for spending the extra funds that could have been used for other means.
8. Let’s also remember that a poker show has so many graphics on the screen at once that without the sound or CC you can follow the action and know what is going on. This was my original argument when I first started this process. CC is not needed, in fact I have several deaf poker players who come and participate in the events and they enjoy the programs on the show and on YouTube which has no captioning either.
9. On a final note, I currently have no paid national sponsors, just a few local sponsors that help me to cover the costs to actually produce the show with rented equipment, purchased items, crew members, insurance, travel and delivery etc. Only a producer such as myself would know what is needed to make it work and how much it would cost. I am doing this because I believe it will lead to bigger and better thing sand my hard work will get recognition. The individual with his opinion does not understand what is needed and should not be considered as credible, especially when they do NO research or follow-ups to ensure they understand the process. If I were this individual I would reach out directly to the few that are submitting to get context and know personally why and how they operate. This is key in making a proper and honest decision and not just making

false statements based on zero education in the area of television production or businesses management.

I have proven the costs are real for my type of program, I have also shown that I do not have the ability to pay for the significant costs, I have also given all the information when asked and as much as I understood. That is obvious because of the financial hardship I will have if not approved, so that is proof that I did what I could to explain and show my hardship which is already being effected due to the suspension of my outside market distribution while I make sure this is taken care of first. Part of the problem is that the individual and his opinion should have all the information already for everything stated, what companies there are that can caption and how much they charge, how much the equipment costs are etc. It doesn't make sense that this information is not already available. We are being asked to be sneaky and as the caption places for "quotes" with NO intention of following thru as a client. This makes it very, very, very difficult to word a request to get an exact answer without a request by the caption place for a phone call. Also...when having to re-ask the same question after getting the answer in the first place, eventually they will realize there is no potential for work. In fact I believe one of the places I requested already knows that I am submitting for exemption, this means that most likely if I am not approved I will not get any possible discounts for long term partnership with the company. This process needs to be re-designed so that it has the information already available to be verified since the purpose is to make sure the petitioner does his or her "due diligence" to prove they actually made an effort instead of just saying they can't pay for it. Those who write opinions about these submissions from average people should also be in the field in which they are writing the opinion about with the information available to verify rather than be -dearth-. That is what I would do if this was my job. I would know everything about what to do before telling others what they should do.



## OFFICIAL DESIGNEE AFFIDAVIT

I, Kirk Fallah, of the City of Homewood, in the Province/State  
(Country) of Illinois, HEREBY MAKE OATH AND SAY:

1. THAT I hereby attest to the truthfulness and accuracy of the information and representations contained in my submission that Windy City Poker Championship, Chad Brown Poker Championship, and Jax50k owned by Fallah Productions Inc. is unable to afford Closed Captioning due to the lack of funding and advertising for the projects. The exemption from Closed Captioning is vital to the existence of the programs. Without the exemption the shows would no longer be in production due to lack of available funds. I declare this under penalty of perjury that the information contained in this submission is true and correct.

2. I am a copyright owner, or an authorized officer or director of the corporate entity,  
Fallah Productions Inc., which is a copyright owner of the production/series  
Windy City Poker Championship.

SWORN before me at the City of

Olympia Fields, in the

Province/State of Illinois,

this 2<sup>nd</sup> day of August, 2015.



Signature

Kirk Fallah

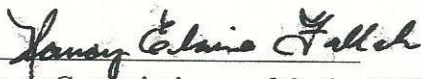
Print Name

President Fallah Productions Inc.

Title and company name (where applicable)

8-2-15

Date



Notary Public or Commissioner of Oaths (Affix seal)

